

- -

**Written Testimony of Richard W. Pound
Vice President, International Olympic Committee
before the
U.S. Senate Committee on Commerce, Science, and Transportation
October 20, 1999**

Introduction

Sport is a consensual activity, entered into by individuals of their own free will, governed by agreed-upon rules. These rules relate to all aspects of the sporting activity, including the definition of the sport, its rules of play, the field of play, the nature of the equipment used, age and weight limits for certain sports and, generally all matters germane to the practice of the sport. Of particular interest to the Committee today is the sub-set of these rule that relate to doping in sport.

The focus of my testimony is the involvement of the International Olympic Committee ("IOC") in the evolution of these "anti-doping" rules and the procedures for their enforcement and the resolution of disputes arising out of their interpretation.

Sport occurs within society as a whole. In that respect, the laws of the land pertaining to certain substances or procedures that are regulated, civilly or criminally, necessarily have primacy over the privately agreed-upon rules of sport. No one would disagree with this characterization.

In the tradition of this and most other democratic countries, however, to the extent that there are no applicable public laws restricting the actions of individuals, those individuals are free to act as they wish. They may also associate with others and agree to their respective conduct as between themselves, including the applicable sanctions in the event that the agreed-upon conduct is breached. They may form associations to organize their sport relationships, locally, nationally and internationally. That is how sport has been organized on a worldwide basis.

Doping in sport has become a serious problem. Sport, within the Olympic Movement, has recognized this and has taken steps to identify the problem, to define it and to fight against it. Because sport is now practiced on a worldwide

basis, the fight against doping is an international problem and the solution to it must necessarily be international or the level playing field, which is fundamental to sport, cannot exist. There must be national building blocks in arriving at the solution, but, unless there is an international and coordinated approach to the question of doping in sport, however well-intentioned the disparate efforts may be, they will inevitably end in failure.

The International Olympic Committee

I am here today to represent the International Olympic Committee (“IOC”) and to provide whatever assistance I can to your Committee in its appreciation of the issues involved in doping in sport, from the perspective of the Olympic Movement.

The IOC was established more than a century ago, in 1894, to renovate the Olympic Games conceived in ancient Greece. It has coordinated and supervised the Olympic Movement ever since and has stimulated the development of sport on an international basis, with the result that some 200 countries now participate in the Olympic Games. It has been a remarkable achievement and the Olympic Games have become the most important sports event in the world today.

The IOC itself is an organization consisting of approximately 100 members who act as trustees of the Olympic Movement on a voluntary basis. It is organized as an association having legal personality under Swiss law and is headquartered in Lausanne, Switzerland. It co-opts members selected for their personal qualities and their ability to help promote the Olympic Movement. Its activities and relationships are governed by the terms of the *Olympic Charter*. It has a permanent staff of slightly more than 100 employees. It acts as a non-governmental organization (“NGO”).

It operates, in a manner akin to governments, by “recognition” of international sports federations (“IFs”) that govern particular sports and of national Olympic committees (“NOCs”) that agree to subscribe to and be bound by the provisions of the *Olympic Charter*. The responsibilities of NOCs are, *inter alia*, to promote the Olympic Movement within their respective territories and to select the athletes from those territories who will participate in the Olympic Games. The NOC recognized by the IOC in the United States is the United States Olympic Committee (“USOC”), to which the Congress has assigned additional responsibilities and in respect of which the Congress has assumed an oversight role, governed, as I understand it, by the 1978 *Amateur Sports Act*.

In addition to the matters for which it has direct responsibility (including the granting of recognition referred to above, the choice of Olympic sports on the Olympic program, choosing the sites of Olympic Games), the IOC exercises a coordinating role within the Olympic Movement. In that role, it deals regularly with IFs, NOCs and the Organizing Committees of each edition of the Olympic Games (“OCOGs”). Other than matters for which it has a clear constitutional responsibility, the IOC has no power to impose its will on any of the autonomous organizations within the Olympic Movement. There is a widespread misconception that the IOC is in a position to control organizations such as IFs and NOCs. It is not in such a position. The IOC depends on developing a consensus amongst them and using its moral suasion to bring about courses of conduct which it considers beneficial to the Olympic Movement and the development of sport.

Role of the IOC in Matters of Doping

There has, unfortunately, always been some element of cheating in sport. In that respect, sport is no different from other social activities in which rules of conduct or of law have been established. As in other elements of society, sport has adopted a combination of education and sanctions to promote compliance with its rules. There are penalties, suspensions, forfeitures of games and events and all the other sanctions with which we are familiar. In society at large, similar sanctions have been adopted for behaviour that does not comply with social norms. These sanctions, as is the case in sport, are graduated, depending upon the severity of the breach and the nature of the particular social rule.

Over the last few decades, concern for the health of athletes and the erosion of sporting ethical values has led the IOC into the field of doping in sport. The first indications of systematic use of performance-enhancing drugs appeared in the late 1950s, when testosterone was discovered to assist in building bulk and strength for weight and field events and stimulants were used to increase performance in certain events, such as cycling. In 1960, a Danish cyclist in the Olympic Games collapsed and died following the use of stimulants.

This led to the formation of the IOC Medical Commission and the creation and publication of a list of substances that were prohibited on the occasion of the Olympic Games. There is little question that, in the initial years, the primary focus of the IOC Medical Commission was the health of the athletes, since it was unclear what all of the damaging side-effects of the substances used might be. The reliable scientific data available to researchers at the time were very limited. This lack of data has been a complicating factor in the work of the IOC Medical Commission ever since its inception, since, once the particular substances were

declared prohibited, the use of them went “underground” and further data became even scarcer. The work of the IOC Medical Commission has been dominated by its focus on the scientific aspects of doping control. The sports-ethics aspect has been secondary.

Over time, the IOC developed the IOC Medical Code, which, in its earlier iterations, was a combination of prohibitions and of indications of what was allowable. It was, essentially, a medical document, rather than a legal document. Its application was, on the occasion of the Olympic Games, very much a matter of decision by the IOC Medical Commission, ratified almost as a matter of course by the IOC Executive Board, from whose decision there was no effective appeal.

During this same period, there were growing concerns that the sport system, especially the international sport system, did not have adequate safeguards to protect the rights of those affected by the decisions of sports organizations. This is referred to, as I understand it, in the United States as “due process” and in many other jurisdictions as the rules of “natural justice.” Many national organizations built into their internal rules an appeal process to deal with cases in which the applicable rules (with which everyone agreed) were improperly applied and an injustice resulted. Prior to such developments, the only recourse of a person affected by such decisions was to the ordinary courts.

The IOC moved in the same direction. In 1983, it established the Court of Arbitration for Sport (“CAS”) to deal with sports-related disputes. The CAS was organized and funded by the IOC and had arbitrators of international experience and reputation available for selection by the parties to any dispute. The roster of arbitrators was originally made up from nominations from the IOC, IFs and NOCs. It functioned in this manner and, in 1993, was judged by the Swiss Federal Tribunal (the country’s supreme jurisdiction) to be a real arbitral tribunal offering sufficient guarantees of independence and objectivity for its awards to be final and enforceable. The same Tribunal suggested that the role of the CAS could be made even stronger, were it not seen to be an organization controlled by the IOC.

This led to the establishment on June 22, 1994 of the International Council of Arbitration for Sport (“ICAS”), a governance structure for the CAS consisting of an equal number of representatives of the IOC, the IFs, the NOCs and (particularly important) Olympic athletes. Thus, no particular constituency is in a

Concurrent with this development, athletes also became entitled to nominate arbitrators to the CAS roster. I have acted as an arbitrator in a dispute before the CAS in which one of the arbitrators was one nominated by athletes and found the ability and conduct of the particular individual to have been completely professional and impartial.

position to control the ICAS or the CAS and the independence of both has become a well-accepted matter of record. This is an important feature in relation to the problem of doping in sport, since the basic structure proposed for the World Anti-Doping Agency [see below] is modeled upon the structure developed for the ICAS. There has been no question of the complete independence and freedom of the ICAS and the CAS from the “control” of the IOC or any other constituent element. Even decisions of the IOC are capable of being arbitrated in the CAS.

The only event that the IOC actually controls is the Olympic Games. All other sport events are organized under the auspices and control of the IFs (such as world championships or world cups), national federations (“NFs”) (such as national championships) or NOCs (such as Olympic trials). Depending upon the particular sport system in a country, there might also be other sport organizations with authority over sport competitions, such as universities (e.g., the NCAA) or professional associations (e.g., NBA, NFL, NHL and MLB). The IOC has no power to impose its own views or rules on any such events.

Despite its limited jurisdiction, what the IOC has tried to do, in addition to testing for prohibited substances and prohibited methods at its own event, is to persuade the other elements within the Olympic Movement to adopt its rules in respect thereof, or, at the very least, analogous rules. The politics of organizational autonomy, however, make simple adoption of an IOC rule unattractive to such organizations. Attached as Exhibit “A” to this statement is a chronology of the actions initiated by the IOC to develop consensus on the matter of doping in sport.

There have been long periods of time during which the IOC has led the fight against doping in sport virtually alone. There are many reasons for the lack of what might appear to have been sufficiently aggressive initiatives on the part of the sport community as a whole, some of which include:

Lack of specific knowledge of what substances and procedures were being used.

Insufficient connection between the international organizations

This was demonstrated during the Olympic Games in Atlanta in 1996, when decisions of the IOC to disqualify certain athletes for the use of the drug Bromantan were overruled by the CAS and the athletes and their results reinstated.

There are many, and obvious, frustrations implicit in such testing. While it is clear that so-called “race day” drugs will be detected during the competitions, others, which are used in the period of preparation for the Games, might no longer be present in the systems of the athletes at the time of the Games, but the athletes may nevertheless have benefited from having used them during the period of training.

governing sport on a worldwide basis and the grassroots level of sport where the doping was actually occurring.

Lack of financial resources necessary to conduct research and testing, especially out-of-competition testing.

Possible desire for continued “progress” in the sport.

“Underground” and clandestine use of drugs and methods.

Participation by certain national governments and organizations in doping.

Perceptions that any positive result in a test constituted a “failure” or an embarrassment to the sport or country involved, rather than a success for having helped to level the playing field.

Difficulty in developing tests that could withstand expensive legal, scientific and procedural challenge.

As is the case with any scenario of “perpetrator” and “police,” the perpetrators take the initiative and are always ahead of the police. The inevitable result is a constant situation of trying to catch-up, first by finding out what is happening and then devising a means of detecting the effects of the doping, so that sanctions can be applied with the confidence that the science is reliable.

The Overall Nature of the Doping Problem

The conclusion of the working group established to prepare for the World Conference on Doping in Sport, held in February, 1999, was that doping in sport is fundamentally an ethical problem, with important possible health risks, rather than a medical or scientific problem. It must be approached primarily from the perspective of ethics, while recognizing that, at the same time, there must be an ancillary function of testing and detecting.

In that respect, the model is not unlike society in general, in which there is an implicit understanding that the laws of the society reflect the shared values of that society. There must, nevertheless, be some element of policing such laws and values against those who might seek to gain some unfair advantage in relation to those who follow the rules. The IFs and NOCs are in the best position to promote the ethical principles involved and, at the same time, to identify those athletes who are at the highest risk (generally the best athletes) and who should be tested, particularly in the periods of preparation for sports competitions.

It is clear, however, that there is also a health concern involved and that this concern should not be minimized. Interestingly enough, there has been some criticism of the IOC in that regard, the suggestion being that such an approach is

paternalistic and not within its mandate. The IOC has continued to reflect this concern despite such criticism, since the anecdotal, if not fully scientific, evidence is that there can be very serious side effects from the use of certain of the substances which are prohibited and other medical risks arising from some of the procedures. The IOC considers, notwithstanding the criticism (which is not universal), that it does have a role to be concerned about the health of athletes within the Olympic Movement.

Scientific research is expensive. The best researchers (and this is not a criticism of any career choices) follow the funding derived from granting agencies or go into the pharmaceutical industry where they may, some day, benefit from discoveries they make in the course of their research. There is not a great deal of funding available for research designed to detect the use of drugs amongst otherwise healthy athletes, nor any particular glory, academic or otherwise, from devising tests for such purpose.

One of the challenges of the Olympic Movement will be to obtain access to more and better research if it is to have any realistic chance of keeping up with the development of new and increasingly sophisticated substances. The research is that much more complicated because it first has to be determined that a particular substance or method is being used and that it is either performance-enhancing or dangerous to the health of the athletes. Then a test must be developed to be able to identify the substance or method in the body of the athlete.

This leads to yet another problem, that is more complicated for the Olympic Movement than it is, for example, in normal medical practice. In the latter, physicians can operate on the basis of probabilities for purposes of practicing the art of healing. Within the Olympic Movement, however, the standards are much higher, because the results of a positive test for a prohibited substance or prohibited method mean disqualification and/or suspension of the athlete. Instead of tests that are reliable on a balance of probabilities, we need tests that are reliable virtually beyond a reasonable doubt. This is an additional burden that must be met. The legal exposure to sports organizations that act without such certainty is enormous, as many have found to their detriment. Even an entirely frivolous challenge can be ruinously expensive.

Already touched upon above is the lack of reliable data with which to work,

The IOC is prepared, for example, to rely upon the results obtained from blood samples, but must be certain that the scientific results of such analysis can meet the standards of reliability required for purposes of imposing sanctions in the event of “positive” cases. There may be circumstances, or substances, in respect of which the traditional method of analyzing urine samples could be the most reliable technology.

both for purposes of assessing the health risks and for the development of more reliable tests. Data may vary, for example, by gender, by age, by the length of time during which the substance or method is used and, possibly, by race or continent. The clandestine use of prohibited substances impedes access to such data for control group purposes in the scientific process.

It is physically impossible for international sports organizations to have a “hands-on” involvement in the practice of sport in each country and in the implementation of out-of-competition tests. They are not, and can never be, equipped to do so. It is the sports organizations “on the ground” that have the ability to undertake the general supervisory and educational activities necessary to bring the phenomenon under control. Even they, however, need assistance to do so. Several countries have developed independent agencies that carry out testing procedures and this model has enjoyed a certain amount of success. Such models have been the genesis of the idea to create an independent international anti-doping agency that emerged from the World Conference on Doping in Sport.

Doping in sport is a domestic, but also international, issue. If any campaign against doping in sport is to be successful, it must be accepted by every country and the standards must be consistent: as to the prohibited substances and methods, the testing protocols, the exposure to out-of-competition testing, the laboratory analysis, the privacy concerns and the rights to appeal against findings. The matter of doping in sport cannot be resolved on the basis of inconsistent national programs, nor by *ad hoc* bilateral agreements. It is too pervasive a problem to be dealt with in such a manner.

One final aspect of the problem relates to the athletes affected by the anti-doping rules. I think it is fair to say that there has been no real “buy-in” from many athletes. Athletes perceive the system, rightly or wrongly, as one that is imposed upon them by the “suits” who administer sport organizations, that is wildly inconsistent and in which many of the major drug-users have access to products for which no reliable tests have yet been developed. They have also seen national governments involved in some of the worst excesses of doping in sport, implementing sophisticated doping programs, insisting upon drug use by their athletes as a condition of participation and routinely covering up such doping activities. Many athletes, in consequence, appear to have become convinced that they, too, must resort to drug use if they are to be competitive.

One of the reasons for insisting that athletes be involved in the new international agency is to provide them with input into the policies and their methods of implementation. If they can see a system that works and in which their interests have been protected, then they will develop confidence in it. If they

know that drug users will be caught and sanctioned, they will know that it will no longer be necessary for them to sink to the lowest common denominator. The Olympic Movement has to win back the confidence of the athletes. But, at the same time, athletes must accept their share of the responsibility, not only for the problem, but also for its solution.

Development of International Consensus

The solution to the problem of doping in sport must be international. It is not enough for some countries to have successful domestic programs, although such domestic programs are necessary components of the overall solution.

I believe that the events of the past couple of years have finally driven home to all sports organizations that there is a real threat to their continued existence if the solution is not found. The sight of police taking athletes and officials from competition sites or their hotels for investigation and/or prosecution has made it clear that there is a real possibility of sport becoming criminalized. This would lead to a state of affairs that strikes at the very foundation of what sport should represent as a humanistic social activity. The particular autonomies of sport organizations must perforce be subordinated to concerted action in the interests of sport in general.

It is this approach that has governed the efforts of the IOC to coordinate this struggle against doping in sport. It is in the common interest of all sport to put the collective house in order and to seek the assistance of the public authorities in those aspects in which the public authorities have jurisdiction. It brings to mind the famous words of your Benjamin Franklin at the signing of the Declaration of Independence on July 4, 1776, "We must all hang together, or assuredly we shall all hang separately." If sport is to remain independent, it must hang together. Our solution must be inclusionary, not exclusionary and not accusatory. No country is immune from doping in sport. We must convince, not force. A sanction of excluding a sport from the Olympic Movement must be the last, the final, resort and be recognized as the ultimate failure, not a victory, in the struggle.

World Anti-Doping Agency

In February of this year, the IOC convened a World Conference on Doping in Sport. Recognizing that the solution to the problem of doping in sport may not be solely within the control of the sports authorities, it invited representatives of governments (including the United States of America) and certain

intergovernmental organizations to participate in the Conference, in addition to the so-called Olympic Family. The final conclusions of the Conference were contained in what is now referred to as the Lausanne Declaration, dated February 4, 1999.

The Lausanne Declaration consists of the following:

Considering that doping practices contravene sport and medical ethics, and that they constitute violations of the rules established by the Olympic Movement, and concerned by the threat that doping poses to the health of athletes and youth in general;

Recognizing that the fight against doping in sport is the concern of all: the Olympic Movement and other sports organizations, governments, inter-governmental and non-governmental organizations, sportsmen and sportswomen throughout the world, and their entourage;

The World Conference on Doping in Sport, with the participation of representatives of governments, of inter-governmental and non-governmental organizations, of the International Olympic Committee (IOC), the International sports Federations (IFs), the National Olympic Committees (NOCs), and of the athletes, declares:

1. Education, prevention and athletes' rights

The Olympic oath shall be extended to coaches and other officials, and shall include the respect of integrity, ethics and fair play in sport. Educational and preventive campaigns will be intensified, focusing principally on youth, and athletes and their entourage. Complete transparency shall be assured in all activities to fight doping, except for preserving the confidentiality necessary to protect the fundamental rights of athletes. Partnership with the media shall be sought in anti-doping campaigns.

2. Olympic Movement Anti-Doping Code

The Olympic Movement Anti-Doping Code is accepted as the basis for the fight against doping, which is defined as the use of an artifice, whether substance or method, potentially dangerous to athletes' health and/or capable of enhancing their performances, or the presence in the athlete's body of a substance, or the ascertainment of the use of a method on the list annexed to the Olympic Movement Anti-Doping Code. The Olympic Movement Anti-Doping Code applies to all athletes, coaches, instructors, officials, and to all medical and paramedical staff working with athletes or treating athletes participating in or training for sports competitions organized within the framework of the Olympic Movement.

3. Sanctions

The sanctions which apply to doping violations will be imposed in the framework of controls both during and out of competition. In accordance with the wishes of the athletes, the NOCs and a large majority of the IFs, the minimum required sanction for major doping substances or prohibited methods shall be a suspension of the athlete from all competition for a period of two years, for a first offence. However, based on specific, exceptional circumstances to be evaluated in the first instance by the competent IF bodies, there may be a provision for a possible modification of the two-year sanction. Additional sanctions or measures may be applied. More severe sanctions shall apply to coaches and officials guilty of violations of the Olympic Movement Anti-Doping Code.

4. International Anti-Doping Agency

An independent International Anti-Doping Agency shall be established so as to be fully operational for the Games of the XXVII Olympiad in Sydney in 2000. This institution will have as its mandate, notably, to coordinate the various programmes necessary to realize the objectives that shall be defined jointly by all the parties concerned. Among these programmes, consideration should be given in particular to expanding out-of-competition testing, coordinating research, promoting preventive and educational actions and harmonizing scientific and technical standards and procedures for analyses and equipment. A working group representing the Olympic Movement, including the athletes, as well as the governments and inter-governmental organizations concerned, will meet, on the initiative of the IOC, within three months, to define the structure, mission and financing of the Agency. The Olympic Movement commits to allocate a capital of US \$25 million to the Agency.

5. Responsibilities of the IOC, the IFs, the NOCs and the CAS

The IOC, the IFs and the NOCs will maintain their respective competence and responsibility to apply doping rules in accordance with their own procedures, and in cooperation with the International Anti-Doping Agency. Consequently, decisions handed down in the first instance will be under the exclusive responsibility of the IFs, the NOCs or, during the Olympic Games, the IOC. With regard to last instance appeals, the IOC, the IFs and the NOCs recognize the authority of the Court of Arbitration for Sport (CAS), after their own procedures have been exhausted.

In order to protect athletes and their rights in the area of disciplinary procedure, the general principles of law, such as the right to a hearing, the right to legal assistance, and the right to present evidence and call witnesses, will be confirmed and incorporated into all applicable procedures.

6. Collaboration between the Olympic Movement and public authorities

The collaboration in the fight against doping between sports organizations and public authorities shall be reinforced according to the responsibilities of each party. Together, they will also take action in the areas of education, scientific research, social and health measures to protect athletes, and coordination of legislation relative to doping.

In pursuance of the Lausanne Declaration, and the timetable it contained, the IOC convened the meetings of a working group that has achieved a significant degree of consensus amongst the sports organizations and public authorities, particularly intergovernmental and international agencies.

This work has led to the announcement of the formation of the World Anti-Doping Agency ("WADA"), which will come into existence effective as of the end of this month. I have attached, as Exhibit "B", for the information of the Committee, some of the related documents, including the draft constating document and proposed Mission Statement.

The mandate of the WADA is quite clear. The fundamental changes in approach that are reflected in the establishment of the WADA include the following:

No single organization (including the IOC) will be in a position to control the WADA.

There will be, once the WADA is fully established, an equal representation of the Olympic Movement and the public authorities.

Athletes will be equally represented in the governance of the WADA, along with the other constituent organizations.

The approach to the problem of doping in sport will be international in scope and be designed to achieve uniformity both in the rules and their implementation.

Its activities will include research, as well as education and prevention.

The participants of the working group included the Arabic Confederation of Sports, the Association of the International Winter Sports Federations, the Association of National Olympic Committees, the Association of Summer Olympic International Federations, the Council of Europe and the Monitoring Group of the Anti-Doping Convention, the European Union, the International Criminal Police Organization, the International Olympic Committee, the IOC Athletes Commission, the United Nations International Drug Control Program and the World Health Organization.

US\$2 million has already been earmarked for second phase research designed to develop controls for two elusive and potentially dangerous substances, erythropoietin (EPO) and human growth hormone (hGH).

I should also mention the establishment of the Olympic Movement Anti-Doping Code. This is a Code that was accepted in the Lausanne Declaration as the basis for the fight against doping in sport. It will come into force as of January 1, 2000, applicable to the entire Olympic Movement. In its present format, the Code is essentially a generic version of the IOC Anti-Doping Code, written in language that seeks to make it applicable for the entire Olympic Movement. It is the starting point from which the WADA can work.

As you will note from paragraph 2 of the Lausanne Declaration, this Code applies, *inter alia*, to “all athletes ... participating in or training for sports competitions organized within the framework of the Olympic Movement.” This is a big step forward, since it renders any athlete who may wish to participate in the Olympic Games liable, in addition to in-Games testing, to out-of-competition testing under the Code, even if such individual may normally be participating within an organization that does not have the same anti-doping rules as those applicable within the Olympic Movement. The mechanics of how and when such individuals may indicate that they wish to be considered for selection on Olympic teams, and thereby fall within the Olympic “system” will have to be determined. These could well vary from sport to sport and organization to organization. A significant portion of the WADA budget will be devoted to funding additional tests, some of which could be dedicated to such hybrid situations.

The Code is by no means perfect and I hope that when all the parties forming the WADA come together, we can develop significant improvements to it. The likelihood of success in that respect will be greatly improved by having everyone at the same table at the same time, so that, in the desire to have a comprehensive and integrated solution, the issues can be resolved by consensus.

The IOC, alone, cannot provide the solution to doping in sport. It does not assert any particular claim to control the process by which eventual success will be achieved. Nor has it ever acted in such a manner. The IOC can and does seek to lead by example and has encouraged a comprehensive effort by all the constituent elements of the Olympic Movement in the overall struggle. It will continue to do so, out of its conviction that the fundamental ethical values inherent in sport and the health of athletes must be protected.

The Role of Legislators

I do not presume to come before this Committee to lecture it on what should be the substance of any legislation or other action that you may consider.

That is a mandate for which you have a sovereign responsibility. There are, however, some general considerations arising out of the testimony before you to which you may wish to direct your thoughts as you reflect upon the proper course to follow.

What is the proper role of government in the practice of sport? Should sport generally be free to regulate itself or should sport only be possible by virtue of and pursuant to legislation?

To what extent should government move in the direction of applying criminal sanctions to sport activities?

Should government be legislating the ethical principles inherent in sport, or is that a social issue best left to sport?

If a drug or a procedure, which may be prohibited within a sport system, presents no overriding danger within society as a whole, should government intervene with legislation or other regulatory actions?

What, if any, is the philosophical difference to be applied in the consideration of doping in sport within the Olympic Movement and in sport outside the Olympic Movement, such as in the professional sport organizations or leagues?

Can government assist sport organizations in their efforts to fight against doping by providing that disputes in such matters be definitively settled in accordance with the appeals processes properly applied by such organizations?

Should government assist the fight against doping in sport by directing resources to research for the development of reliable scientific methods for detection of drug use and for educational programs?

What is the best method for government to act in the interests of achieving international consensus between governments on the harmonization of the approach to such questions as trafficking, access to athletes for purposes of out-of-competition testing, protection of appropriate rights of privacy of athletes and the general approach to supporting sports organizations in their desire to achieve drug-free sport?

This, clearly, is not an exhaustive list of issues, but it may be helpful in the

development of any matrix against which you might approach the subject matter.

Conclusion

As you already know, the questions that are raised in any consideration of doping in sport are complex and interrelated. They cannot be solved easily or in isolation. But I believe that they can be solved, if the sport and public authorities, together with the athletes, work together toward a common objective, each recognizing the value contributed to the overall solution by the others. If we can do this, and I pledge the continuing commitment of the IOC in this regard, then, in the words of Winston Churchill, while this may not be the end, nor even the beginning of the end, it will at least be the end of the beginning in this particular struggle.

Exhibit “A”

Brief history of the IOC’s fight against doping

1960: IOC Session in San Francisco

President Brundage called the attention of the IOC members to the use being made of amphetamines in some sports.

1961: IOC Session in Athens

Creation of the Medical Commission

1963: Publication of a list of banned substances by the Council of Europe's Committee on Out-of-School Education.

1965: In the light of experiences at the Tokyo Games in 1964, Prince Alexandre de Merode presented a report which provided the starting point for future anti-doping efforts.

9th May 1967: The approach of the Mexico City Games brought the problem of doping into particularly sharp focus and prompted further debate at the highest level within the IOC. At the 66th IOC Session in Tehran, from 6th to 9th May 1967, the problems associated with drug testing, the list of products and methods used for doping and sex testing for the 1968 Games were expounded by the retiring Sir Arthur Porritt. Prince Alexandre de Merode (Belgium) was appointed Chairman of the IOC Medical Commission. The basic principles of the commission were set out by the chairman.

These are:

- protection of athletes’ health
- defence of sports ethics
- equality for all participants at the moment of competition.

1968: The first tests were performed by the IOC at the Winter Games in Grenoble. At that time, the list of banned substances was revised and extended.

1968: Wide-ranging anti-doping tests were performed at the Games of the Olympiad in Mexico City, under the leadership of the IOC Medical Commission.

1981: Creation of the "Doping and Biochemistry of Sport" sub-commission within the IOC Medical Commission. At that time, the sub-commission’s role was to

prepare the list of banned substances and define the procedures to be applied when tests were performed. Outside sources from all parts of the sports world were asked to make proposals regarding the list of banned substances. Careful study of which substances should be added to or withdrawn from the list allows it to cover substances which, when misused or abused, represent either a danger to the health of an athlete or an artificial increase in performance, or both. This list is published annually and is recognized by the whole of the sports world.

1981: The IAAF introduced a laboratory accreditation process. This procedure was deemed necessary to ensure a high level of testing and avoid any uncertainty concerning the results obtained.

After this procedure was put in place, the following laboratories were accredited during the next two years:

- Cologne, Germany
- Kreischa, ex GDR
- Leningrad, USSR
- London, United Kingdom
- Magglingen, Switzerland
- Montreal, Canada

The IOC “anti-doping” sub-commission recognized the laboratories accredited by the IAAF at the joint IAAF/IOC meeting on 23rd May 1981, and they were granted IOC accreditation.

This accreditation process is conducted by the “Doping and Biochemistry” subcommission of the IOC Medical Commission. The Commission ratifies the decisions, and submits them to the IOC Executive Board for approval. Its secretariat is in Barcelona, and is run by Prof. Jordi SEGURA

A reaccreditation procedure takes place every year, with aptitude checks every four months. This system of accreditation and permanent checks allows the IOC to guarantee athletes reliability of testing meaning that the same results should be obtained in any of the accredited laboratories.

This reliability is achieved through strict monitoring of the equipment and staff of these laboratories. Any change in staff, particularly among the senior staff in any

laboratory must be reported to the IOC straightaway, whereupon a new accreditation procedure will be started

There are two temporary suspension phases.

The growth in the number of laboratories is shown below:

| | |
|------|----|
| 1986 | 18 |
| 1987 | 21 |
| 1988 | 20 |
| 1989 | 20 |
| 1990 | 21 |
| 1991 | 21 |
| 1992 | 23 |
| 1993 | 23 |
| 1994 | 24 |
| 1995 | 24 |
| 1996 | 25 |

At present, there are 27 accredited laboratories across the five continents.

The number of samples analysed by these laboratories in 1997 was 106,561.

1988: The idea and purpose of an International Charter Against Doping in Sport was mooted for the first time by Canada at the 5th Conference of European Ministers Responsible for Sport in September 1986. Subsequently, a working group co-chaired by Canada and the IOC, and including representatives of the Council of Europe, the European Sport Conference and the United States Olympic Committee (USOC), met several times to establish the framework and text of the initial Charter.

The International Olympic Charter Against Doping in Sport, prepared by the IOC, the Canadian government, Council of Europe, European Sports Conference and the USOC, was adopted by the IOC in September 1988 at the Olympic Games in Seoul.

26th - 29th June 1988: First Permanent World Conference on Anti-doping in Sport co-chaired by the Canadian government and the IOC.

April 1989: Barcelona agreement between the IOC and ASOIF aimed at stepping up the fight against doping by increasing action in terms of prevention and education.

1989: Second Permanent World Conference on Anti-doping in Sport on the theme of out-of-competition testing.

November 1989: Presentation by the Prince de Merode to the IOC Executive Board of plans for an Olympic Movement anti-doping agency involving the IFs, NOCs and IOC. Governments and outside experts would also be included.

1991: Third Permanent World Conference on Anti-doping in Sport in Bergen, Norway, on the theme of education and information for athletes.

December 1991: Creation of the working group on out-of-competition testing by the IOC Medical Commission. The Commission members realized that the doping tests currently in place were not sufficient to detect the misuse of anabolic steroids, peptide hormones and related substances during training. To be truly effective, doping measures had to be employed during training periods. The out-of-competition tests should be performed without warning athletes beforehand and sufficiently often, in order to be effective.

Controls of this kind have been developed in recent years both nationally (USA, CAN, GER, GBR, FRA, URS, AUS, SUI, NOR, SWE, etc.) and through bilateral and multilateral agreements (RUS-USA, RUS-FIN, AUS-GBR-CAN, Nordic League, etc.). Some International Federations have set up their own programmes (IAAF, FISA, IWF). However, these isolated efforts are clearly inadequate. Effective coordination and harmonization between the various authorities responsible for these activities are indispensable; this should be undertaken by an ad hoc committee under the moral authority and guidance of the IOC.

June 1993: Lausanne agreement between the IOC and ASOIF on closer harmonization of rules and procedures for out-of-competition tests.

1993: Fourth Permanent World Conference on Anti-doping in Sport in London, on the theme why do athletes dope?

January 1994: Lausanne Declaration "Preventing and fighting against doping in sport" signed by the IOC, ASOIF, AIWF, ANOC and the athletes. was agreed

that the first stage in the fight against doping would be for the “voluntary” bodies to reach an agreement to enable them to negotiate with the governmental bodies, with a view to eliminating the existing contradictions between national legislation and the rules of the sports movement.

1994,1995 and 1996: Meetings of the working group to follow up on the agreement of 13th January 1994, defining the harmonization of:

- *. sampling equipment
- *. out-of-competition testing procedures
- *. qualification of the officials responsible for sampling

June 1995: The IOC adopted the IOC Medical Code, drafted by the IOC’s lawyers, which replaced the International Olympic Charter Against Doping in Sport.

1996: Signature of the Gh2000 agreement between the European Union and the IOC for a 1,800,000 ECU project over three years for research into detecting growth hormone.

1997: The Lausanne scientific days brought together international experts on detecting testosterone, EPO and human growth hormone. The purpose of this meeting was to provide an overview of what research was being carried out on detecting these three substances.

1998: Signature of an agreement between the IOC and the European Union (DG XII) on the harmonization of anti-doping methods and measures. The agreement included funding for a preliminary study.

The final project is scheduled to be presented in November 1999 to the European Union in Brussels.

1999: World Conference on Doping in Sport - Lausanne 2nd, 3rd, 4th February 1999.

After the events which shook the world of cycling in the summer of 1998, the IOC decided to convene a World Conference on Doping, bringing together everyone directly or indirectly involved in the fight against doping.

Exhibit “B”

Draft Mission Statement and Constating Document for World Anti-Doping Agency

1. Draft Mission Statement

4.1 General Mission

The mission of the Agency shall be to promote and coordinate at international level the fight against doping in sport in all its forms ; to this end, the Agency will cooperate with intergovernmental organisations, governments, public authorities and other public and private bodies fighting against doping in sport, inter alia, the International Olympic Committee (IOC), International Sports Federations (IF), National Olympic Committees (NOC) and the athletes ;

The Agency's principal task will be to coordinate a comprehensive anti-doping programme at international level, laying down common, effective, minimum standards, compatible with those in internationally recognized quality standards for doping controls, particularly with regard to out-of-competition controls, and seeking equity for all athletes in all sports (including professional sports) and in all countries. Whereas priority will be given to high-level international competitive sport, the Agency will also take account of anti-doping programmes at all other levels of sport.

For these purposes, the International Federations, while preserving their autonomy and their own authority, agree to cooperate with the Agency and coordinate their respective anti-doping programmes with it in order to ensure that duplication is avoided and that the same application is achieved worldwide. The Agency will encourage and support the IFs in this endeavour.

The tasks of the Agency will also have consequences for anti-doping work at national level. The Agency shall cooperate with, and have recourse to the capacities of, competent national anti-doping agencies and other organisations (such as national Olympic committees or national confederations of sport) in charge of and conducting national anti-doping work.

The Agency will help countries or federations who at present do not have effective

anti-doping programmes or agencies to develop them, or, following agreement, to act on their behalf with regard to the Objects of the Agency.

In order to carry out these tasks the Agency may execute agreements between itself, the international federations and the national anti-doping agencies or bodies, taking account of relevant international and national regulations and texts. On those occasions where there is a conflict of jurisdiction in anti-doping matters between an international and national body (or vice-versa), the Agency will use its good offices to seek a satisfactory solution.

The Agency will be entitled to make proposals to the Olympic Movement and to international sports organisations and to the public authorities on measures that could be taken to ensure further harmonisation and equity in anti-doping questions.

The Agency will be entitled to give an opinion to the International Olympic Committee on the implementation by international federations of the Olympic Movement's Anti-Doping Code.

The Agency shall monitor the application of the Agency's principles and work.

4.2 Reinforcement of ethical principles and protection of the health of athletes

The mission of the Agency shall be to reinforce at international level the ethical principles for the practice of doping-free sport and to help protect the health of athletes;

The Agency shall prepare materials, aimed at athletes, coaches and others in the athlete's entourage, for strengthening the ethical principles for the practice of doping-free sport. In order to help protect the health of athletes, the Agency shall prepare similar materials for doctors working with athletes, taking account also of medical ethics.

4.3 Lists of prohibited substances and methods

The mission of the Agency shall be to establish, adapt, modify and update for all the public and private bodies concerned, inter alia the IOC, the IFs and NOCs, the list of substances and methods prohibited in the practice of sport ; the Agency will publish such a list at least once a year, to come into force on 1st January each year ; or at any other date fixed by the Agency if the list is modified during the course of the year;

The Agency will draw up a common list of prohibited classes of substances and prohibited methods for adoption by all sports and by all national anti-doping agencies. This list will be updated periodically, at least once a year, for entry into force as stipulated in the Statutes.

The Agency will establish a procedure for including a new prohibited substance or method when circumstances require outside the usual annual cycle (urgent procedure).

The list will be initially based on that prepared by the IOC's Medical Commission. This Commission will be entitled to provide inputs into the updating of the list, and for the identification of new doping practices and forms of use. In order to facilitate its approval and application by national anti-doping agencies and other interested bodies, the list will be updated in consultation with appropriate international bodies including those responsible for the regulation of medicines.

The Agency will pay attention to the need to define clearly the legitimate use for genuine therapeutic purposes of substances or methods which could be in conflict with the list, and draw up guidelines for their use.

The Agency will disseminate the list as widely as possible by all available means.

4.4 Unannounced out-of-competition controls

The mission of the Agency shall be to encourage, support, coordinate, and when necessary undertake, in full agreement with the public and private bodies concerned, the organisation of unannounced out-of-competition testing ;

The Agency will develop, on the basis of existing texts, common operating procedures with minimum, high quality standards for the conduct of unannounced out-of-competition controls.

The Agency, from the point of view of uniformity and equity in all sports and in all countries, will :

- determine annually the number of unannounced out-of-competition controls which it will finance ;

- organise and conduct unannounced out-of-competition controls with the approval of and in liaison with International Federations, concentrating in the first instance on countries and sports where such controls are not at present carried out ;

- coordinate and ensure harmony between such controls carried out internationally

and those carried out nationally.

The focus of the controls, in the first instance, will be on those athletes eligible for, or striving to be eligible for, competition at international level.

The Agency may execute agreements (cf 4.1) for the performance of unannounced out-of-competition controls on a regular basis or for an ad hoc purpose. Such controls may be performed by the IFs themselves, by national federations, National Olympic Committees and/or national agencies or other specialized public or private entities.

4.5 *Harmonisation and unification of the scientific,sampling and technical standards, development of a reference laboratory*

The mission of the Agency shall be to develop, harmonise and unify-scientific sampling and technical standards and procedures with regard to analyses and equipment, and to develop a reference laboratory ;

These standards will include standards for doping control officers (sampling officers) carrying out these controls. The Agency will develop a certification procedure for such doping control officers, applicable to those working at international level, and, via the national agencies, to those conducting such controls at national level.

To this end, the Agency may develop training programmes, validation procedures and standards, and re-training programmes.

The Agency will develop standards for sample collection and for sampling equipment.

The Agency will develop, on the basis of the existing systems approved by the IOC Medical Commission :

- a procedure, to be prepared in consultation with the appropriate international bodies, for the accreditation and the regular re-accreditation of anti-doping laboratories ; this procedure will be based on the relevant international standards ;
- protocols for the analysis of prohibited substances and methods ;
- standards for laboratory equipment, techniques, methods and staff recruitment and training.

With regard to the reference laboratory, the Agency will develop the standards for and appoint in due course an independent reference laboratory, which should no

longer be concerned with routine anti-doping analytical work, with the task of overseeing the above-mentioned protocols and standards, verifying new laboratory methods and techniques, developing common reference samples and substances, validating and certifying analytical work, and ensuring quality control and good laboratory practice. The reference laboratory will help and advise anti-doping laboratories seeking accreditation. It will act as a source of neutral expertise with regard to laboratory questions.

The Agency will produce annual statistics on the number of tests performed world-wide and their results.

The Agency will develop standards for the protection of privacy and personal data in anti-doping questions.

4.6 Harmonisation of rules, disciplinary procedures, sanctions and other means of combating doping in sport

The mission of the Agency shall be to promote harmonised rules, disciplinary procedures, sanctions and other means of combating doping in sport, and contribute to the unification thereof taking into account the rights of athletes;

The Agency, respecting the autonomy and authority of the International Federations, will:

promote the development by international federations of harmonised disciplinary procedures, incorporating measures to protect the rights of athletes, in particular:

- the reporting and disciplinary bodies to be distinct from one another
- the rights to a fair hearing and to be assisted or represented
- clear and enforceable provisions for appealing against any judgement made.

make proposals for a range (both in kind and in time) of adequate sporting sanctions, common to all sports, and appropriate to the offence. These sanctions, for implementation by the federations and by national anti-doping agencies or bodies will, in the case of the latter, bear in mind any specific relevant national legislation.

The Agency will monitor compliance with this Article by international and national bodies and make recommendations as appropriate.

The Agency will also develop means of bringing those responsible for anti-doping

offences in the athlete's entourage within the scope of sporting anti-doping sanctions.

The Agency can make proposals to intergovernmental organisations for measures that could be taken to improve the fight against international trafficking and supply of doping substances in sport.

4.7 Anti-doping education and prevention programmes

The mission of the Agency shall be to devise and develop anti-doping education and prevention programmes at international level, aimed at promoting the practice of doping-free sport according to ethical principles.

The Agency will develop all appropriate measures to improve anti-doping information and education programmes and other preventative anti-doping work and campaigns. It will support exchange network, advise, and provide tools for international sports organisations and national anti-doping agencies and the various « health professionals » linked to sport on measures that could be taken in this field. The Agency will exploit the possibilities offered by existing dissemination channels as well as modern communication techniques and media. This part of the Agency's work should also take particular account of the positive role played by the mass-media and cooperate with them in informing the public of the nature of anti-doping work in international sport.

The Agency should also contribute to the dissemination of information on anti-doping questions generally. To this end, it may organise conferences, seminars or workshops.

4.8 Promotion and coordination of research in the fight against doping in sport

The mission of the Agency shall be to promote and coordinate research in the fight against doping in sport ;

The Agency will establish an inventory of anti-doping research carried out around the world. It will endeavour to coordinate such research, in order to avoid duplication and to promote complementary research, particularly with regard to research carried out by accredited laboratories. It will seek complementarity with relevant research programmes.

The Agency may undertake research itself within its scope and budget.

The Agency will stimulate, foster and seek proposals for new research into :
(new) substances and methods being used (or thought to be so) by sports people and devising appropriate analytical techniques and reasons for adding or excluding them from the list of prohibited substances and methods ;
the psychological and sociological aspects of doping, with a view, inter alia, of helping to develop more effective anti-doping strategies.

The Agency will stimulate research into scientific training programmes respecting the integrity of the human body.

The Agency may create a Research Fund, to which the private sector would be encouraged to contribute. The Board will pay attention to any possible conflict of interest in this respect.

The Agency will be entitled to draw up plans and proposals for its conversion, as the need may arise, into a different structure, possibly one based on international public law.

The Agency will seek to build upon existing and relevant competences, structures and networks, only creating new ones when necessary. The Agency may however set up working parties, commissions, or working groups, on a permanent or ad hoc basis, for the accomplishment of its tasks. It may hold consultations with other interested public or private organisations, whether involved in sport or not.

2. Draft Constatng Document

FOUNDATION

world anti-doping agency

- Statutes -

Article 1

Designation

Under the name World Anti-doping Agency hereinafter referred to as “the Foundation”, a foundation governed by articles ... and by the present provisions is hereby constituted.

Article 2

Seat

The legal and statutory seat of the Foundation is in

The Foundation Board is entitled to transfer the seat of the Foundation to another place, in (country) or abroad.

Article 3

Duration

The duration of the Foundation is unlimited.

Article 4

Object

The object of the Foundation is:

1. to promote and coordinate at international level the fight against doping in sport in all its forms ; to this end, the Agency will cooperate with intergovernmental organisations, governments, public authorities and other public and private bodies fighting against doping in sport, inter alia, the International Olympic Committee (IOC), International Sports Federations (IF), National Olympic Committees (NOC) and the athletes;
2. to reinforce at international level the ethical principles for the practice of doping-free sport and to help protect the health of athletes;
3. to establish, adapt, modify and update for all the public and private bodies concerned, inter alia the IOC, the IFs and NOCs, the list of substances and

methods prohibited in the practice of sport ; the Agency will publish such a list at least once a year, to come into force on 1st January each year; or at any other date fixed by the Agency if the list is modified during the course of the year;

4. to encourage, support, coordinate, and when necessary undertake, in full agreement with the public and private bodies concerned, the organisation of unannounced out-of-competition testing;
5. The mission of the Agency shall be to develop, harmonise and unify scientific, sampling, and technical standards and procedures with regard to analyses and equipment, and to develop a reference laboratory;
6. to promote harmonised rules, disciplinary procedures, sanctions and other means of combating doping in sport, and contribute to the unification thereof taking into account the rights of athletes;
7. to devise and develop anti-doping education and prevention programmes at international level, aimed at promoting the practice of doping-free sport according to ethical principles;
8. to promote and coordinate research in the fight against doping in sport;

The Agency will be entitled to draw up plans and proposals for its conversion, as the need may arise, into a different structure, possibly one based on international public law.

The Agency will seek to build upon existing and relevant competences, structures and networks, only creating new ones when necessary. The Agency may however set up working parties, commissions, or working groups, on a permanent or ad hoc basis, for the accomplishment of its tasks. It may hold consultations with other interested public or private organisations, whether involved in sport or not.

In order to achieve its object, the Foundation has the right to conclude any contract, to acquire and transfer, free or against payment, all rights, all movables and any real estate of whatever nature, in any country. It may entrust the performance of all or part of its activities to third parties.

Article 5

Capital and Resources

The founders allocate to the Foundation an initial capital of

The other resources of the Foundation shall consist of any other contributions, donations, legacies and other forms of allowance or subsidy from all natural or legal persons and all intergovernmental organizations, governments, public authorities and other public and private bodies.

Article 6

Foundation Board

The Foundation Board shall initially be composed of not less than members; this number may be increased to a total of no more than 35 members. The members of the Foundation Board are personalities designated for a period of three years. They may be re-elected for two additional periods of three years. The first members of the Foundation Board shall be designated as follows:

6.1 members designated by the Olympic Movement, in accordance with the following distribution :

3 members designated by the IOC;

3 members designated by the IFs, of whom 2 members will be designated by the Association of Summer Olympic International Federations (ASOIF) and one by the Association of International Winter Sports Federations (AIWF);

1 member designated by the General Association of International Sports Federations (GAISF);

3 members designated by the Association of National Olympic Committees (ANOC);

3 athletes designated by the IOC Athletes' Commission.

6.2 - ... members designated by the intergovernmental organizations, governments, public authorities or by other public bodies active in the fight against doping in sport (hereinafter "public authorities") in accordance with the following distribution :

-
 -
 -
- 6.3 The other members shall be designated, as the case may be, by the Foundation Board upon joint proposal by the Olympic Movement and the Public Authorities.
- 6.4 As a general rule, when it is renewed and added to, the Foundation Board will ensure that a balance is struck and maintained between, on one side, the members of the Foundation Board representing the Olympic Movement (viz. the IOC, ASOIF, AIWF, ANOC and the IOC Athletes' Commission), and, on the other side, those representing the public authorities. The provisions of paragraph 6.6 below are reserved.
- 6.5 The Board may also invite a limited number of intergovernmental or other international organizations to act in an advisory capacity to the Foundation. Such organizations, which will be invited on the basis of their legitimate interest in the work of the Foundation and their expertise in relevant fields, may participate in the discussions of the Board but may not vote on Foundation Board decisions.
- 6.6 To the extent that the annual allocations or contributions to the budget of the Foundation paid pursuant to article 13, paragraph 1 below, by the Olympic Movement on one side, and by the public authorities on the other side are equivalent, each of the two parties, namely the Olympic Movement on one side, and the public authorities on the other side, shall be entitled to designate an equal number of Foundation Board members.
- Failing such equivalent annual allocations by each of the two above-mentioned parties, the party whose allocation actually paid is lower will be entitled to designate a number of members of the Board which shall be inferior by at least one to the number of members designated by the other party; this system will apply for as long as the annual allocations or contributions to the Foundation budget paid by the two above-mentioned parties are not equivalent.
- 6.7 The Foundation Board may depart from the provisions of paragraphs 6.1 to 6.6 above by a unanimous decision on the part of its members.

Article 7

Organization of the Foundation Board

The Foundation Board is self-organized. It designate a chairman, a vice-chairman and a secretary; the secretary may be chosen from outside the Foundation Board.

Article 8

Meetings and Decisions of the Foundation Board

The Foundation Board meets as often as is necessary, but at least once a year. The meetings of the Foundation Board are convened by the Chairman or by the secretary upon delegation of the Chairman. The Chairman is bound to convene a meeting at the written request of at least five members.

A set of minutes, signed by the Chairman and by the minute-taker, records the deliberations and decisions of the Foundation Board.

At meetings, the members of the Foundation Board have the right to ask the persons entrusted with running and representing the Foundation for information on the conduct of the activities of the Foundation and on specified questions.

The Foundation Board takes its decisions by an absolute majority of the votes of the members present, subject to the provisions of article 17, paragraph 2 of the present statutes. In the event of a tie, the Chairman has the casting vote.

The decisions of the Foundation Board may be taken on the approval given in writing to a proposal, unless discussion thereof is required by any of the members; decisions shall be recorded in the minutes.

Article 9

Attributions of the Foundation Board

The powers of the Foundation Board are determined, with regard to the

Foundation, by the law, the present statutes and all other regulations and decisions of the Foundation Board.

The Foundation Board has the inalienable right to:

- 9.1 Propose amendments to the present statutes.
- 9.2 Designate the auditing body of the Foundation.
- 9.3 Designate the Executive Committee provided for in the present statutes.
- 9.4 Designate if it deems it necessary to do so, other ad hoc or standing committees, *inter alia* a scientific committee, with the task of providing opinions or advising the Foundation on specific issues or in specific fields.
- 9.5 Take all decisions relating to the acquisition, against payment, or transfer, free or against payment, of all real estate.

Article 10

Obligations of the Foundation Board

The Foundation Board is obliged, in particular:

- 10.1 to ensure the independence of the Foundation and transparency in all its activities;
- 10.2 to supervise the committees or persons entrusted with the running and representation of the Foundation, in order to ensure that the activity of the Foundation is in accordance with the law, the present statutes and the regulations, and to keep itself informed about the conduct of the activities of the Foundation;
- 10.3 to designate the members of the Executive Committee and other committees as provided for in the present statutes;
- 10.4 to promulgate the regulations relating to the Foundation Board itself, the Executive Committee and other committees, together with all other

regulations indispensable to the operation of the Foundation;

10.5 to see to it that the minutes of the Foundation Board and the necessary books are duly kept and that the management report, profit and loss account and balance sheet are established in conformity with the provisions of the law.

10.6 to publish each year in French and English a report on all its activities, its profit and loss account and statement in accordance with the applicable legal requirements.

Article 11

Executive Committee

11.1 The Foundation Board delegates to an Executive Committee of at least 5 members and a maximum of 9 members, the majority chosen from amongst the Board members, the actual management and running of the Foundation, the performance of all its activities and the actual administration of its assets.

11.2 The members of the Executive Committee are designated by the Foundation Board for periods of one year at a time. They may be re-elected.

11.3 Furthermore, in case of incapacity or death of a member of the Executive Committee, he will be replaced immediately, either by the Foundation Board or temporarily by the Executive Committee; such temporary appointment shall become final upon its ratification by the Foundation Board no later than during its next meeting.

11.4 The Chairman of the Executive Committee is designated by the Foundation Board; furthermore, the Executive Committee appoints, if necessary, a vice-chairman chosen from amongst its members. The Committee may also designate a secretary, who may be chosen from outside the Committee.

11.5 The Executive Committee is competent to take all decisions which are not reserved by the law or by the present statutes for the Foundation Board; its mission and organization will be specified in one or more sets of regulations which the Foundation Board will promulgate to this end.

Article 12

Representation of the Foundation

The Foundation is duly represented and bound vis-à-vis third parties by the collective signature of two of the persons designated by the Foundation Board as follows:

- (a) at least two members of the Executive Committee.
- (b) at least two members of the Foundation Board, one of whom must be one of the members designated by the Olympic Movement, and another must be one of the members designated by the public authorities.

Article 13

Annual management report, balance sheet and profit and loss account

No later than November 30 of each year, the Foundation Board shall approve the budget for the following financial year; failing such approval, the budget of the current year shall apply to the next year. The annual allocations and other contributions shall be paid no later than December 31 of each year for the following year.

Each year, the Foundation Board submits to the supervisory authority the management report, balance sheet and profit and loss account as approved by the Board.

The financial year corresponds to the calendar year. The first financial year will thus end on 31 December 2000.

Article 14

Auditing Body

Each year, the Foundation Board designates a qualified and independent auditing body. Each year, the auditing body submits to the Foundation Board a report on the accounts of the Foundation; such report will be submitted to the supervisory authority.

Article 15

Indemnities

The members of the Foundation Board are not entitled to any indemnity for the performance of their functions; they are however entitled to reimbursement of their expenses subject to the conditions fixed by the Foundation Board.

For the performance of their functions, the members of the Executive Committee are entitled to an annual indemnity fixed by the Foundation Board, and to the reimbursement of their expenses.

The auditing body is entitled to fees in accordance with professional practice.

The staff employed by the Foundation is entitled to the remuneration fixed by the Executive Board which also decides on the other conditions of employment.

Article 16

Modification of the statutes

The Foundation Board may propose amendments to the present statutes to the supervisory authority.

Any proposed amendment must be approved by an absolute majority of all the members of the Foundation Board. In the event of a tie, the Chairman has the casting vote.

Article 17

Dissolution

The Foundation may be dissolved in the cases provided for by the law.

The foundation board may designate one or more liquidators.

No winding up measure may be performed without the express agreement of the

supervisory authority.

Any surplus from winding up is given, with the agreement of the
....., to an institution pursuing the same or a similar object.

Article 18

Entry in the Trade Register

The Foundation will be entered in the ... Trade Register.

Article 19

Supervisory Authority

The Foundation will be placed under the supervisory authority of the
....., the competence whereof is hereby reserved.